

REMARKS

I. Summary of the Office Action

Claims 108-114 were pending.

The Examiner rejects claims 108-114 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. The Examiner rejects claims 108-111 and 114 under 35 U.S.C. § 102(e) as being anticipated by Evard et al. U.S. Patent 6,616,675 (hereinafter "Evard"). The Examiner rejects claim 111 under 35 U.S.C. § 103(a) as being unpatentable over Evard. The Examiner rejects claims 112 and 113 under 35 U.S.C. § 103(a) as being unpatentable over Evard in view of Lam U.S. Patent 5,607,444 (hereinafter "Lam").

II. Applicants' Claim Amendments

Applicants have amended independent claim 108 to more clearly define the claimed invention. Claims 109 and 112 have been amended to conform with amended independent claim 108. Support for the amendment to claim 108 can be found, for example, at page 22, line 24 to page 23, line 4 of applicants' specification.

Applicants have added new dependent claims 115-119 to set forth further features of the invention. Support for claims 115-119 can be found, for example, at page 20, lines 3-15 and page 13, line 24 to page 15, line 2 of applicants' specification.

Applicants have added new claims 120-131 to set forth an alternate embodiment of the invention. Support for these claims can be found, for example, at page 23, line 5 to page 25, line 10 of applicants' specification.

Applicants have added new claims 132-142 to set forth a method corresponding to the invention. Support for these claims can be found, for example, at page 13, line 24 to page 15, line 2 of applicants' specification.

Accordingly, applicants' claims 108-142 are fully supported by the specification and no new matter has been added.

III. The Rejection under § 112, First Paragraph

The Examiner rejects claims 108-114 under 35 U.S.C. § 112, first paragraph as failing to comply with the written description requirement. In particular, the Examiner contends that the feature "wherein the axial distance between the first and second sets can be changed" of claim 108 is not supported by the specification. In order to advance prosecution, applicants have amended claim 108 to remove the feature cited by the Examiner. Applicants, however, reserve the right to provide arguments at a later date regarding support of this feature in the originally-filed specification.

Accordingly, applicants submit that the Examiner's rejection under § 112, first paragraph has been obviated and should be withdrawn.

III. The Prior Art Rejections

The Examiner rejects claims 108-111 and 114 under 35 U.S.C. § 102(e) as being anticipated by Evard. The Examiner rejects claim 111 under 35 U.S.C. § 103(a) as being unpatentable over Evard. The Examiner rejects claims 112 and 113 under 35 U.S.C. § 103(a) as being unpatentable over Evard in view of Lam. The Examiner's rejections are respectfully traversed.

Applicants respectfully submit that Evard is not a proper § 102(e) reference with respect to the present application. In particular, for a U.S. patent resulting from an International Application filed before November 29, 2000, the § 102(e) date of the patent is the § 371(c)(1), (2) and (4) date (MPEP 706.02(f)(1), particularly 700-38). Therefore, Evard has a § 102(e) date of March 17, 1999, which does not precede applicants' filing date of January 30, 1998^{ssss}.

^{ssss} The present application claims priority to U.S. patent application No. 09/016,721, filed January 30, 1998.

Accordingly, applicants respectfully request that the Examiner's prior art rejections, which are all at least in part based on Evard, be withdrawn.

Independent of the foregoing, applicants submit that independent claim 108 is patentable over Evard at least because Evard fails to show or suggest a device for use in closing septal defects that includes first and second sets of fingers, wherein only one set of fingers is covered by a web of material between adjacent ones of the fingers, as required by applicants' claim.

Accordingly, applicants submit that independent claim 108 is patentable over Evard. Claims 109-114, which depend from claim 108, are patentable at least because claim 108 is patentable.

IV. New Independent Claims 120 and 132

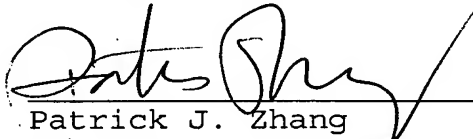
Applicants submit that new independent claims 120 and 132 are patentable over Evard at least because these claims also set forth a closure device that includes first and second sets of fingers, wherein only one set of fingers is covered by a web of material between adjacent ones of the fingers.

Application No. 10/683,537
Amdt. Dated October 13, 2005
Reply to Office action of April 13, 2005

V. Conclusion

In view of the foregoing, this application is in condition for allowance. Reconsideration and allowance are respectfully requested.

Respectfully submitted,



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